C.B. (II) No. 62

COMMITTEE ON SUBORDINATE LEGISLATION

SECOND REPORT

(Second Lok Sabha)

Presented on the 21st December, 1957

LOK SABHA SECRETARIAT
NEW DELHI
December, 1957

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(1957-58)

1. Sardar Hukam Singh—*Chairman*
2. Shri Phani Gopal Sen
3. Shri Anand Chandra Joshi
4. Shri Harish Chandra Mathur
5. Shri R. M. Hajarnavis
6. Shri K. S. Ramaswamy
7. Shri Sinhasan Singh
8. Shri Jitendra Nath Lahiri
9. Shri Bahadur Singh
10. Shri T. N. Viswanatha Reddy
11. Shri Shamrao Vishnu Parulekar
12. Shri Aurobindo Ghosal
13. Shri J. M. Mohamed Imam
14. Dr. A. Krishnaswami
15. Shri Braj Raj Singh.

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary*
Shri N. N. Mallya—*Deputy Secretary*
Shri A. L. Rai—*Under Secretary.*

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the report on their behalf, present this their Second Report.

2. Subsequent to the presentation of the First Report the Committee held two sittings and considered 285 new 'Orders'. The Committee also considered the 'Orders' that were pending final disposal at the time of presentation of the First Report. At a sitting held on the 20th December, 1957, the Committee considered this Report and passed it.

3. Observations of the Committee on matters of special interest made during the course of their examination of the 'Orders', matters which required to be brought to the notice of the House, as well as the recommendations of the Committee have been included in this Report.

II

CITATION OF EXACT STATUTORY AUTHORITY IN THE PREAMBLE TO THE ORDERS

4. The Committee in para 76 of their Sixth Report (First Lok Sabha) and in para 76 of their First Report (Second Lok Sabha) had recommended that specific sections of the parent Act should be cited in the preamble to all rules, regulations etc. for the purpose of enabling all concerned to know under what precise authority the rules were made.

5. The Ministry of Transport and Communications did not cite specific section of the Post Office Act in the preamble to S.R.Os. 1011, 1015 and 2342 of 1957 amending the Indian Post Office Rules. Also the Ministry of Commerce and Industry did not cite specific section of the Forward Contracts (Regulation) Act, 1952, in the preamble to S.R.O. 179 of 1957, which amended the Bye-laws of the Saurashtra Oilseeds Association Ltd., Rajkot.

6. The point was referred to the Ministries concerned. The Ministry of Transport and Communications intimated the section of the parent Act, but the Ministry of Commerce and Industry stated as follows:—

> "the amendments to the bye-laws were not made by the Central Government. They were made by the concerned Association and were sent to the Central Government for approval. By the S.R.O. in question, no bye-laws were made. Hence the need for quoting authority in exercise of which the bye-laws were made did not arise."

7. The Committee note that section 11 of the Forward Contracts (Regulation) Act, 1952, authorizes the recognised associations to make bye-laws subject to the previous approval of the Central Government and requires publication thereof in the Gazette. Under section 12 of that Act, Central Government could amend those bye-laws. The Committee feel that in the preamble to the S.R.O. 179 of 1957 the relevant section under which it was made could have been cited for the purpose of enabling all concerned to know under what precise authority the bye-laws were made.

8. The Committee feel that the reasons advanced by the Ministry of Commerce and Industry for not citing the authority are not convincing. The Committee emphasise that Ministries should cite the sections of the parent Act in the preamble of all rules, regulations, bye-laws etc. and amendments thereto issued or published by them.

III

BYE-LAWS FOR THE REGULATION OF THE GRAZING OF ANIMALS IN THE POONA CANTONMENT (S.R.O. 330 OF 1956, PART II, SECTION 4, OF THE GAZETTE)

9. Clause 2 of the above bye-laws requires that all persons who desire to let their animals out for grazing, shall pay in advance such fees as may be fixed by the Cantonment Board from time to time.

10. Sections 282(21) and 283 of the Cantonments Act, 1924 under which the above bye-laws have been made, do not authorise the Cantonment Board to levy grazing fees.

11. The Committee are of the view that the power to impose fees by rules or bye-laws cannot be exercised unless specifically given in the parent Act. In the present case, therefore, the Committee recommend that if the Board wants to levy grazing fees the Cantonments Act, 1924, should be suitably amended to provide for the levy of such fees.

IV

AMENDMENTS TO THE MINERAL CONCESSION RULES, 1949 (S.R.O. 1681 OF 1951)

12. S.R.O. 1681 of 1951 which was issued under section 5 of the Mines and Minerals (Regulation and Development) Act, 1948, introduced new rules 55 and 56 in the Mineral Concession Rules, 1949. The new rules read as follows:—

> "55. No court shall take cognizance of any offence punishable under these Rules, unless upon complaint made in writing by an officer empowered by the State Government in this behalf within six months of the date on which the said offence is alleged to have been committed."
>
> "56. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under these Rules."

13. The Committee on Subordinate Legislation in para 24 of their Second Report (First Lok Sabha) had observed that provisions as to which court should take cognizance of the offences under the parent Act, and the period upto which it could take such cognizance were not matters to be provided in the Rules and should more properly be dealt with in an Act of Parliament.

14. The Committee note that the main provisions of the said rules 55 and 56 have since been incorporated in clause 21 of the Mines and Minerals (Regulation and Development) Bill, 1957, which was introduced in Lok Sabha on the 29th July, 1957.

V

BYE-LAWS FOR THE REGULATION OF PUBLIC WATER SUPPLY ETC. AND COLLECTION OF WATER CHARGES IN DEOLALI CANTONMENT (S.R.O. 80 OF 1957, PART II, SECTION 3, OF THE GAZETTE)

15. The above bye-laws were made under section 282 of the Cantonments Act, 1924.

Bye-law No. 20:

This bye-law reads :—

> "Meters shall be supplied by the Consumers at their own cost, which will nevertheless become the property of the Cantonment Board."

16. There appeared to be no reason why the meters supplied at the cost of the consumers should become the property of the Board.

17. *Bye-law No.* 26: This bye-law authorised the Cantonment Board to close, stop, reduce or restrict the supply of water *inter alia* in respect of classes of persons. It was felt that such a provision might lead to discrimination between different classes of persons.

18. The Ministry of Defence to whom the above points were referred for comments stated as follows:—

> ".....,, necessary action is being taken by the President, Cantonment Board, Deolali, to amend the bye-laws, as follows :—
>
> (a) to delete words 'which will nevertheless, become the property of the Cantonment Board' from bye-law No. 20.
>
> (b) to delete the words 'classes of persons' occurring in bye-law No. 26."

19. The Committee note the assurance given by the Ministry.

VI

THE BOMBAY DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1956 (S.R.O. 2634 OF 1956)

20. The Bombay Dock Workers (Regulation of Employment) Scheme, 1956, was made under section 4(1) of the Dock Workers (Regulation of Employment) Act, 1948.

21. *Clause* 15(1)(*d*).—This clause provides that a registration fee of Rs. 500 shall be payable by certain category of stevedores.

22. Section 3(2)(c) of the parent Act provides for levying of registration fee in respect of Dock Workers only and not stevedores.

23. It was felt that in the absence of any specific authorisation in the parent Act, the levy of registration fee of Rs. 500 was beyond the rule-making power of the Government.

24. *Clause* 15(1)(*e*): Second proviso to this clause gives discretionary power to the Board to dissolve a group of registered employers, formed under the Scheme for purposes of pooling their resources together and enlisting monthly dock workers, when the Board is satisfied that employers have failed to comply with the conditions prescribed by it.

25. It was felt that the dissolution of a group might affect the employers financially and as there was no right of appeal against the order of the Board, an opportunity of being heard should have been given to the employers affected.

26. The Committee had considered exactly similar points in connection with the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, and recommended in paras 133 and 137 of the First Report (Second Lok Sabha) that—

(1) The levy of registration fee on the stevedores (employers) should be provided in the Act itself.

(2) The dissolution of a group might affect the employers financially and as there was no right of appeal against the orders of the Board, an opportunity of being heard should have been given to the aggrieved employers and the rules should be amended accordingly.

27. The Committee feel that the above recommendation should hold good in respect of this Scheme as well.

VII

RAILWAY PASSENGER FARES ACT, 1957—PROVISION FOR LAYING THE RULES BEFORE PARLIAMENT

28. Section 6 of the Railway Passenger Fares Act, 1957, sought to delegate to the Central Government the rule-making power to carry out the purposes of the Act. The Act did not contain any provision for laying the rules so framed before Parliament.

29. Attention of the Ministry of Finance was invited to paras 77 to 79 of the Sixth Report of the Committee on Subordinate Legislation (First Lok Sabha) according to which the following provision for laying the rules on the Table of the House should have been inserted in the Act.

> "All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the Session in which they are so laid or the Session immediately following."

30. The Committee note the assurance given by the Ministry of Finance that the procedure for laying the rules before both Houses of Parliament as mentioned in the Sixth Report (First Lok Sabha) will be duly followed in respect of rules made under the Railway Passenger Fares Act, 1957.

VIII

AMENDMENT TO THE INDIAN WIRELESS TELEGRAPHY (COMMERCIAL RADIO OPERATORS CERTIFICATES OF PROFICIENCY AND LICENCE TO OPERATE WIRELESS TELEGRAPHY) RULES, 1954 (S.R.O. 793 OF 1957)

31. Rule 11(2) of the above rules, as amended by S.R.O. 793 of 1957, authorises the Central Government to prescribe fees for issue of duplicate copies of a certificate or licence under the said rules but does not prescribe the rates of such fees in the body of the rules.

32. Ordinarily the rates of fees are laid down in the rules and not in separate notifications.

33. On a reference being made, the Ministry of Transport and Communications have assured that the rates of fees will be included in the body of the rules whenever they are printed again.

34. The Committee note the assurance given by the Ministry.

IX

BYE-LAWS FOR THE REGULATION OF HERDING OF ANIMALS AND THEIR REGISTRATION IN THE ALLAHABAD CANTONMENT (S.R.O. 458 OF 1956, PART II, SECTION 4, OF THE GAZETTE)

35. Bye-law 2 of the above bye-laws levies a fee of Rs. 1-8-0 to Rs. 2 on persons owning or keeping animals within the Allahabad Cantonment.

36. Similarly, Bye-law 9 imposes a fee of Re. 1 for every permit issued for using any premises as a stable, cowhouse etc.

37. Clauses 11 and 37 of section 282 of the Cantonment Act, 1924, under which these Bye-laws have been made, do not provide for the levy of such fees.

38. In the absence of any specific statutory authority the imposition of above-mentioned fees goes beyond the bye-law making power of the Cantonment Board.

39. The Ministry of Defence on the advice of the Ministry of Law, stated that "Ministry will have to amend the bye-laws in respect of Allahabad Cantonment and all the bye-laws which have a similar position. Necessary action in this respect is being taken separately".

40. The Committee note the assurance given by the Ministry.

X

AMENDMENT IN THE CARBIDE OF CALCIUM RULES, 1937 (S.R.O. 3248 OF 1957)

41. The Carbide of Calcium Rules, 1937 were made under the Petroleum Act, 1934. Rule 13 thereof delegated rule-making power to subordinate authorities though such sub-delegation was not authorized by the parent Act.

42. The point was referred to the Ministry of Works, Housing and Supply who on the advice of the Ministry of Law intimated that Rule 13 of the Carbide of Calcium Rules would be deleted.

43. The Committee note that the rule has since been deleted.

XI

AMENDMENTS IN SCHEDULE III OF THE INDIAN ADMINISTRATIVE SERVICE (PAY) RULES, 1954 (S.R.O. 2726 OF 1957)

44. The Indian Administrative Service (Pay) Rules, 1954 were made under the All India Services Act, 1951. Schedule III-A and III-B of these rules which enumerates the posts carrying pay above the time-scale and senior time-scale of the Indian Administrative Service under the State Governments was amended by S.R.O. 2726 of 1957.

45. The said S.R.O. was published in the Gazette of India on the 31st August, 1957 but it was given retrospective effect from the 4th April, 1957. It was felt that the retroaction of the S.R.O. might affect some of the persons in the I.A.S. adversely.

46. The All India Services Act, 1951 under which the above S.R.O. was made does not expressly empower the Government to give retrospective effect to Rules made thereunder.

47. Ministry of Home Affairs to whom the above point was referred stated as under:—

> "Amendments to the rules can be issued only after consultation with the State Governments and the concerned Ministries in the Government of India. Normally even after such consultation, the form of amendment has to be formally vetted by the Ministry of Law where necessary, by

certain other Ministries, also. All this process takes time and where a decision to amend any particular rules has been arrived at after consulting the proper authorities, it is the practice to issue executive orders and undertake formal amendment later. Where such formal amendments have to be given effect to from the date of the executive orders or from an earlier date, where such date is agreed to by all concerned, the formal amendments are given retrospective effect. It is under such circumstances that formal amendments are given retrospective effect.

While this is the general position, the need for giving retrospective effect to the amendment issued under S.R.O. 2726 of 1957 is explained below:—

> The Indian Administrative Cadre Schedule of Assam was revised with effect from the 4th April, 1957 *vide* Ministry of Home Affairs Notification No. 17|13|56-AIS(III), dated the 4th April, 1957. As the entries in Schedule III-A and III-B to the Indian Administrative Service (Pay) Rules, 1954 are to correspond to the entries in the Indian Administrative Service Cadre Schedule, the entries in Schedule III to Pay Rules had to be revised with effect from the date on which the revised Cadre Schedule came into force *i.e.* 4th April, 1957."

48. The Committee feel that in view of the explanation given by the Ministry no further action is necessary.

XII

AMENDMENT IN THE INDIAN CENTRAL COCONUT COMMITTEE PROVIDENT FUND RULES (S.R.O. 1555 of 1957)

49. S.R.O. 1555 of 1957 which was issued under section 18 of the Indian Coconut Committee Act, 1944 *inter alia* substituted Rule 8(3) of the Indian Central Coconut Committee Provident Fund Rules.

50. The new rule 8(3) provides that a person employed under the Committee, either temporarily or on a long term basis, may subscribe to the Provident Fund from the date of his appointment but he will be entitled to claim the Committee's share of contribution to the Fund only from the date on which he completes 3 years of his service.

51. According to the substituted rule 8(3) an employee could become a subscriber to the Fund upon confirmation and he had the option to subscribe with retrospective effect from the date of commencement of his probation. In case he subscribed with retrospective effect he could, under Rule 11(4) of the said rules get Coconut Committee's share of contribution for the whole period for which such retrospective effect was given.

52. It was felt that the present probationers who could have on confirmation subscribed with retrospective effect and got Coconut Committee's share of contribution to the Fund with effect from the dates of the commencement of their probation could under the new

rule only claim Coconut Committee's share of that contribution from the date on which they completed 3 years of service and thus they would be affected adversely by the new rule.

53. The Ministry of Food and Agriculture to whom a reference was made in the matter stated as follows:—

> "Under the new Rule 8(3) a temporary employee of the Committee as well as a permanent one is entitled to claim the Committee's share of contribution to the Provident Fund only from the date on which he completes three years of his service under the Committee though he is entitled to subscribe retrospectively from the date of his appointment. But under Rule 11(4) of the Committee's Provident Fund Rules, a subscriber can claim the Committee's share of contribution even before the expiry of the stipulated period of 3 years. There appears to be some inconsistency between the new Rule 8(3) and Rule 11(4) and this inconsistency is being removed by amending the latter Rule. No cases where the amendment has affected adversely any present probationers, have so far been brought to the notice of this Council."

54. The Committee note the Ministry's reply. However the Committee recommend that either the old rule 8(3) should be restored or the new rule 8(3) should be made applicable only to new entrants as natural justice demands that no changes in the rules should be brought about which may adversely affect the terms and benefits of persons already in service.

XIII

PROCEDURE FOR APPLICATIONS MADE UNDER SUB-CLAUSE (1) OF CLAUSE 14B OF THE COTTON CONTROL ORDER, 1955—(S.R.O. 1415 of 1957)

55. S.R.O. 1415 was made under the Cotton Control Order, 1955.

56. Para 2(iii) of the above S.R.O. provides that for the purpose of valuation of cotton, the Textile Commissioner shall get it surveyed at the cost of the applicant purchasing cotton and para 2(vi) provides that the survey fees shall not exceed Rs. 16/- for every 50 bales or port thereof.

57. The Essential Commodities Act, 1955 which is the ultimate statutory authority for the said S.R.O. does not provide for the levy of such fees.

58. The Ministry of Commerce and Industry to which the above point was referred stated as follows:—

> "The Law Ministry has been consulted and in view of the decision of the Patna High Court in the case of Ram Lakshman *Vs.* Election Commissioner, 7 E.L.R. 364, this Ministry has been advised that the levy of fees under S.R.O. 1415 even in the absence of an express provision for such levy in the parent Act *i.e.* Essential Commodities Act, 1955 is legally supportable."

59. The Committee recall a similar point raised in connection with the Delhi (Control of Building Operations) Regulations, 1955 which was referred to the Attorney-General for his opinion. The Attorney-General in his reply made a reference to the decision of the Patna High Court in Ram Lakshman *Vs.* the Election Commissioner 7 E.L.R. 364, on which the Ministry of Food and Agriculture rely for the validation of the fees referred to in the S.R.O. 1415 above, and also to the Madras High Court decision in the case of Ayyar & Co. *Vs.* Srinivasulu (1942 Mad. 73 at page 76). He was of the opinion that the view adopted in the later decision was the better view, (the Madras High Court had observed: "It is a general principle that any provision by which a member of the public may be taxed should be clearly stated; so should, in my view an analomous provision by which any payment can be compelled from them.") In the light of the opinion given by the Attorney-General the Committee in para 72 of their First Report (Second Lok Sabha) had recommended that the regulation ought to be amended. In this case also the Committee recommend that in order to enable the levy of survey fees the Essential Commodities Act, 1955 should be suitably amended.

60. As the above S.R.O. is in the nature of Subordinate Legislation the Ministry were requested to state whether they intended to lay the order before Parliament like the orders issued under section 3 of the Essential Commodities Act, 1955.

The Ministry replied as follows:—

> "S.R.O. 1415 has been issued by Textile Commissioner in exercise of the power conferred on him by sub-clause (2) of clause 14B of the Cotton Control Order, 1955. As the said S.R.O. is not issued under section 3 of the Essential Commodities Act, 1955, it is considered that a copy of this order need not be laid before the Parliament."

61. The Committee do not accept the above view of the Ministry. In view of the fact that S.R.O. 1415 is a subsidiary order for which ultimate statutory authority lies in section 3 of the Essential Commodities Act, 1955, it ought to have been laid before Parliament.

62. The Committee therefore recommend that all subsidiary orders issued under the Cotton Control Order should also be laid before Parliament.

XIV

CALCUTTA DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1956 (S.R.O. 2315 of 1956)

63. The Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 was framed under sec. 4(1) of the Dock Workers (Regulation of Employment) Act, 1948.

Clause 15(1) (c) of the said Scheme reads as under:—

> "Persons or firms other than those who are deemed to have been registered under item (b) shall not be registered as

stevedores unless the Board considers it expedient and necessary to do so and in no case shall a person or a firm be registered until he or it has been licensed in that behalf by the *Port Authority*."

64. The Term 'Port Authority' occurring in the above clause of the Scheme has neither been defined in the parent Act nor in the Scheme. In the absence of any definition of the term it is not clear as to what constitutes the Port Authority for the purposes of the said Scheme.

65. On a reference being made, the Ministry of Labour and Employment stated that the term 'Port Authority' referred to the "Calcutta Port Commissioners" set up under the Calcutta Port Act, 1890 and that the term had not given rise to any difficulty.

66. The Committee note that the term 'Port Authority' has been defined in section 2(bb) of the Employment of Children Act, 1938, meaning 'a body of Port Commissioners or other authority administering a port'.

67. The Committee recommend that the term "Port Authority" should be defined as in the Employment of Children Act, 1938 or substituted by an appropriate term used in the Calcutta Port Act, 1890.

XV

ACTION TAKEN OR PROPOSED TO BE TAKEN BY GOVERNMENT ON VARIOUS RECOMMENDATIONS OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIRST LOK SABHA)

68. The Committee have considered the replies sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations contained in the *Second, Third, Fourth* and *Sixth* Reports of the Committee (First Lok Sabha).

69. The recommendations that have been accepted by the Government are given in Appendix I. The recommendations in respect of which the Government have given their own suggestions and such suggestions have been accepted by the Committee are given in Appendix II.

70. The recommendations which have not been accepted wholly or partly by the Government and are being pursued by the Committee are given in Appendix III.

XVI

DELAY IN LAYING OF 'ORDERS' ON THE TABLE

71. The Committee had in their earlier Reports recommended that all rules required to be laid should be laid within a period of 7 days after their publication in the Gazette if the House was then in session; if it was not then in session the 'Orders' should be laid on the Table as soon as possible (but within 7 days) after the commencement of the following session.

72. In view of the difficulties experienced by the Government in complying with this recommendation the Committee have now accepted the Government's suggestion for raising the period from 7 days to 15 days (*vide* item 4 in Appendix II).

73. The Committee however regret to note that even this period of 15 days has not been adhered to and in a number of cases the delay involved has been more than one year. A statement showing delay in such cases is given in Appendix IV.

NEW DELHI;
The 20th December, 1957.

HUKAM SINGH
Chairman,
Committee on Subordinate Legislation.

SUMMARY OF RECOMMENDATIONS MADE IN THE SECOND REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SECOND LOK SABHA)

S. No.	Reference to para No. in the Report	Summary of Recommendations
1	8	Ministries should cite the relevant sections of the parent Act in the preambles to all rules, regulations, bye-laws etc. and amendments thereto issued or published by them.
2	11	The power to impose fees by rules or bye-laws cannot be exercised unless specifically given in the parent Act. If the Poona Cantonment Board wants to levy grazing fees under the Cantonments Act, 1924, the Act should be suitably amended to provide for the levy of such fees.
3	26-27	The levy of registration fee imposed on the Stevedores under the Bombay Dock Workers (Regulation of Employment) Scheme, 1956 should be provided for in the Dock Workers (Regulation of Employment) Act, 1956. Second proviso to clause 15(1) (e) of the above Scheme should be amended to provide for giving to the aggrieved employers an opportunity of being heard as there is no right of appeal against the orders of the Dock Labour Board.
4	54	Either the old rule 8(3) of the Indian Central Coconut Committee Provident Fund Rules should be restored or the new rule 8(3) should be made applicable only to new entrants.
5	59	In order to enable the levy of survey fees as have been levied under S.R.O. 1415 of 1957, the Essential Commodities Act, 1955 should be suitably amended.
6	62	All subsidiary orders issued under the Cotton Control Order should also be laid before Parliament.
7	67	The term "Port Authority" occurring in clause 15(1)(c) of the Calcutta Dock Wokers (Regulation of Employment) Scheme, 1956 should be defined as in the Employment of Children Act, 1938 or substituted by an appropriate term used in the Calcutta Port Act, 1890.

APPENDICES TO THE REPORT

APPENDIX I

Recommendations that have been accepted by the Government

(*See* Para 69)

S. No.	Ref. to para No of the Report	Summary of Recommendations	Gist of Government's Reply
1	2	3	4
		Ministry of Commerce and Industry	
1	Para 12, Second Report	Rule 4(1) of the Development Councils (Procedural) Rules, 1952 (S.R.O. 359 of 1953), which provides that the Chairman of the Development Council shall be either nominated by Central Government or elected by members of the Council, should be amended to provide for only one system of appointing the Chairman, either that of election or nomination.	The rule has not been amended so far but hitherto only one system of appointment of the Chairman, *viz.* that of nomination by the Central Government has been followed in all cases. Action is being taken to amend the rule suitably. (Ministry of Commerce and Industry O.M. No. Parl. 5(24)/56 dated the 10th October, 1956).

1	2	3	4
2.	Para 26, Third Report .	Rule 4 of the Tea Rules, 1954 should be amended to provide for the representation of Lok Sabha and Rajya Sabha in the ratio of 2:1.	The Rule has since been amended accordingly. (S.R.O. 1686 of 1957 laid before the House on 30-5-1957.)
3.	Para 29, Third Report. .	The resignation by a member of the Tea Board or a Committee should be effective either from the date of submission, or from the date from which the member wants it to be effective or after the completion of certain notice period (to be fixed by Government) after the date of submission and a specific provision to this effect should be made in Rule 6 of the Tea Rules.	The rule has since been amended accordingly. (S.R.O. 1476 of 1956 laid before the House on 16-7-56).
		Ministry of Communications	
4.	Paras 32-33, Third Report	The Government are already vested with power to make rules under section 5 of the Indian Aircraft Act, 1934, for any aircraft or a class of aircraft. It is not clear as to what was the necessity for taking further powers under a new rule 130B of the Indian Aircraft Rules, 1937. The rule is of an unusual character.	Action to cancel the rule has been initiated. (Ministry of Communications O.M. No. 9 DC(39)/56, dated the 4th September, 1956).
5.	Para 27, Fourth Report. .	Some time limit should be specified in Rule 45 of the Air Corporations Rules,1954 within which the authority concerned must take a decision on the letter of resignation of a Member or the Chairman of Air Transport Council.	The Rule has since been amended accordingly. (S.R.O. 2762 of 1956—laid before the House on 5-12-1956).

Ministry of Defence

6.	Para 24, Fourth Report. .	According to Rule 35A(10) of the Reserve and Auxiliary Air Forces Act Rules, 1953, the quorum of State and Unit Advisory Committees which consists of 9 and 5 members respectively will be only 2 and 1. Therefore the quorum of these Committees should be raised.	The rule will be amended accordingly. (Ministry of Defence O.M.No. F. 113-PB/Misc./XII/7325/56, dated the 11th October, 1956).

Ministry of Home Affairs

7.	Para 22, Second Report.	Rule 4 (2) of the Delhi Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952, vesting the Chairman with powers to over-rule the view of the Chief Accounts Officer on new proposals, come into conflict with the provisions of section 16(3) of the Delhi Road Transport Authority Act, 1950, and is thus beyond the rule-making authority of the Government.	The rule has since been amended. (S.R.O. 1380 of 1956 laid before the House on 13-5-1957).

Recommendations of General Nature which concern all Ministries

8.	Para 44, Third Report .	All rules and amendments to rules should be given short titles both in the body and at the top.	Accepted, but whenever considerable difficulty is experienced short title may be dispensed with. (Ministry of Law O. M. No. F. 24(2)/56-L, dated the 20th August, 1956).
9.	Para 46, Third Report. .	Explanatory notes explaining the general purport should be appended to all the rules and amendments.	(i) Simple and self-explanatory rules do not require any explanatory notes;

1	2	3	4
			(*ii*) Explanatory notes or press communiques will be attached to the more complicated and important rules without their forming part of the rules. (Ministry of Law O. M. No. F.24 (2)/56-L, dated the 20th August, 1956).
10.	Para 29, Fourth Report. .	Whenever there are extensive amendments to any rules the rules should be re-printed.	Practice has been to re-print the rules whenever extensively amended. (Ministry of Law O. M. No. F. 24 (2)/56-L, dated the 20th August, 1956). Necessary action will be taken as and when occasion arises. (Department of Parliamentary Affairs O. M. No. 71(L)/56-P. A., dated the 9th July, 1956).
11.	Para 32, Fourth Report. .	The representation of the Lok Sabha and the Rajya Sabha on Statutory bodies should be in the ratio of 2:1.	The recommendation is accepted in principle subject to the proviso that when the number of members representing Parliament on a Statutory body is less than 3, representation will be given to the Lok Sabha only

			when it is one, and one to each House when it is two. (Department of Parliamentary Affairs, O. M. No. 71(L)/56-P. A., dated the 9th July, 1956).
12.	Para 9, Third Report.	Attempts should be made by Government to avoid as far as possible the use of complicated language in the rules.	Simple language is used except where the nature of the subject requires technical language. (Ministry of Law, O. M. No. F. 24(2)/56-L, dated 20th August, 1956).
13.	Paras 32-35, Sixth Report	While publishing amendments to the rules made by Parliament, the authority under which amendments are made should also be duly cited in the preamble to the notifications containing such amendments.	Government generally accept this recommendation. (Department of Parliamentary Affairs O. M. No. S(6) L-57P. A., dated the 21st June, 1957).
14.	Paras 75-76, Sixth Report	It is essential that the authority giving power to make rules etc. should be specifically cited in the preamble to the rules for the purpose of enabling all concerned to know under what precise authority the rules have been made.	Government generally accept this recommendation. (Department of Parliamentary Affairs, O.M. No. S(6) L-57P. A., dated the 21st June, 1957).

APPENDIX II

Recommendations not accepted by the Government but replies in respect of which have been accepted by the Committee

(*See* Para 69)

S. No.	Ref. to Para No. of the Report	Summary of Recommendations	Gist of Government's Reply
1	2	3	4
		Ministry of Commerce and Industry	
1.	Para 13, Third Report.	[Section 4A(1) of the Indian Tariff Act, 1934 empowers the Central Government to increase or levy export duty on an article by notification.	Cancellation of a Notification re : export duties amounts to reduction or abolition of export duties.
		Section 4A(2) requires that such notification should be got approved by Parliament with or without modifications within a period of 15 days of its being laid on the Table.	Sec. 23 of the Sea Customs Act and sec. 12 of the Indian Tariff Act vest in the Government the power of cancellation. During the course of Debate on Indian Tariff. (Third Amendment) Bill 1952, the then Commerce and Industry Minister in reply to a similar point observed:
		Section 4A(3) empowers the Government to rescind any notification approved by Parliament under section 4A(2)]	

	Notifications issued under section 4A(3) above should also be placed on the Table for approval of Parliament in the same manner as provided in sub-section (2) above.	"If actually any increase is made, naturally Parliament will be informed but if any reduction is made, excepting the sending of an ordinary intimation to Parliament, there is no question of Parliamentary sanction for the purpose of effecting a reduction, it is an economic corrective and Government will have to take action from time to time." (Lok Sabha Debates Column 3937, dated the 16th July, '52). (Ministry of Commerce and Industry O.M. No. Prl. 5(24)/56 dated the 4th August, 1956).
2. Para 31, Third Report. .	As is envisaged in clause (d) of section 49(2) of the Tea Act, 1953 the provisions re: the conditions of service etc. of the Secretary and other Officers of the Board who are appointed by the Central Government should be included in the Tea Rules, 1954.	It has not been possible to provide conditions of service etc. of the Secretary and Officers of the Board appointed by the Central Government because pay, allowance, conditions of service etc. vary from person to person, holding the post. If incumbent is an I.A.S. Officer, as is the case at the moment, he will be governed by conditions of service applicable to I.A.S. Officers. If the pay,

1	2	3	4
			allowance and other conditions of service are laid down in the Tea Rules, the Government will be compelled to restrict the selection to the limited sphere. (Ministry of Commerce and Industry, O.M. No. Parl. 5(24)/56 dated the 4th August, 1956).
		Ministry of Finance	
3.	Para 35, . . .	(*a*) Whenever the Government exempt any article from excise duty they should immediately inform the House.	(*a*) Noted for compliance. (Ministry of Finance O.M. No. F2(10)-ADI/56, dated the 5th September, 1956).
		(*b*) Whenever any measure levying excise duty is pending in the House, no action by way of exemption of an article from the Duty should be taken without the approval of the House.	(*b*) Government have been vested by Parliament with the power of granting exemptions under sec. 23 of the Sea Customs Act, 1878 and sec. 37(2) (xvii) of the Central Excises and Salt Act, 1944 and Rule 8 of the Central Excise Rules, 1944. The object of these provision is to introduce a degree of flexibility in the administration of the Customs and Central Excise Duties,

which would enable Government to step in and provide the relief which may be needed at any time by a trade, an industry, educational institutions etc..

The provisions relating to new or increased Central Excise and Customs duties are given immediate effect by a declaration appended to the Bill seeking to levy such duties under the Provisional Collection of Taxes Act 1931. In giving immediate effect to the duties in this manner, Government has at the same time to protect, in accordance with the accepted policy of Parliament, the interests (for example) of the small-scale or cottage producers of the commodities affected by the duties, by making provisions for suitable partial or total exemptions, simultaneously with the coming into force of the duties themselves.

In fact in such cases the grant of reliefs of this kind are themselves a part of the tax proposals by Government.

2	3	4
		Any prior discussion in Parliament, of a definite proposal on the part of Government to modify existing reliefs, or to grant fresh ones, would lead to speculation in the markets, and it is therefore, necessary to announce them, and to bring them into effect, without previous notice of the intentions of Government the position is not very different in this respect from what it is at the time of the announcement of the budget proposals themselves. (Ministry of Finance O.M. No. 2/15/55-C, dated the 1st November, 1956).
	Recommendations of General Nature which concern all Ministries	
4. (i) para 32, Second Report	Orders required to be laid on the Table should be laid within 7 days after their publication in the Gazette; if the House is not in session at that time the 'Orders'	A period of not shorter than 15 days will be more practicable: The reasons are :—

	(*ii*) Para 48, Third Report	should be laid on the Table as soon as possible (but within 7 days) after the commencement of the following session.	(*i*) Government of India Press assigns S.R.O. numbers and copies thereof are made available after some time. (*ii*) Some delay may involve in obtaining Minister's signature. (Ministry of Law O. M. No. F. 24(2)/56-L, dated the 20th August, 1956 and Department of Parliamentary Affairs, O. M. No. S(6) L-57-P.A., dated the 21st June, 1957).
	(*iii*) Para 40, Fourth Report.		
	(*iv*) Para 83, Sixth Report.		
5.	Paras 26-28 Sixth Report.	Corrigenda to statutory rules and orders should be published within 15 days of the publication of the rules etc. in which errors are found.	Period should not be less than 30 days. A period of less than 30 days is likely to be impracticable as : (1) the scrutiny of rules after the receipt of the gazette, correction of errors, despatch and publication of corrections take some time. (2) Corrigenda in cases of serious errors require consultation with the Ministry of Law and other Ministries. (Department of Parliamentary Affairs O. M. No. S(6) L-57-P.A., dated the 21st June, 1957)

1	2	3	4
6.	Paras 80-81, Sixth Report.	Whenever rules framed by the Government under any Act are laid on the Table of the House a statement of *Objects and Reasons* and also a statement containing explanatory notes on the rules, should be appended thereto for the information of Members. *When new Rules amending the original rules are laid on the Table of the House the relevant extracts from the original rules should also be attached to such rules.*	(*i*) simple and self-explanatory rules do not require any explanatory notes; (*ii*) explanatory notes will be attached to the more complicated and important rules without their forming part of the rules. (Department of Parliamentary Affairs O. M. No. S(6) L-57-P.A., dated the 21st June, 1957) (The underlined portions of this recommendation are still under consideration of the Government—Department of Parliamentary Affairs, D.O. No. S(6)V/L-57/P.A., dated the 18th November, 1957).

APPENDIX III

Recommendations not accepted by Government and pursued by the Committee

(*See* para 70)

Serial No.	Reference to para No. of the Report	Summary of Recommendations	Gist of Government's reply	Comments of the Committee
1	2	3	4	5
		Ministry of Finance		
1	Para 8, Third Report	Rules 2 (2), 2(7), 5, 7, 9, 11 and 15 of the Estate Duty (Controlled Companies) Rules, 1953 make provisions of substantive character which are calculated to impose taxation and therefore, should have been if necessary included in the Act.	The Ministry have no comments to offer. (Ministry of Finance O.M. No. F. 2(10), A.D. 1/56, dated the 9th July, 1956).	The Estate Duty Act, 1953 should be amended to provide for the matters contained in rules 2 (2), 2(7), 5, 7, 9, 11, 15 of the Estate Duty (Controlled Companies) Rules, 1953.

1	2	3	4	5
		Ministry of Home Affairs		
2	Para 42, Third Report.	All Statutory rules and orders of concern or importance to the general public should be published at the Centre as well as in the States, preferably simultaneously. The translation of these rules and orders in the recognised languages of the States should also be published along with them in the respective State Gazettes. Press Communique should also be issued to explain the general purport and effect of the rules etc.	Implementation of this recommendation will involve some practical difficulties *viz.* delay in publication, premature leakages of rules which may be prejudicial to the public interest. The following is suggested for the consideration of Committee on Subordinate Legislation. (1) Important Statutory rules and orders and particularly those of local importance should be published in the State Gazettes as soon as *after* their publication at the Centre. (2) It should be recommended to the State Governments to translate and publish such rules in regional languages whenever they think it useful ; (3) Press Communiques will be issued as usual to explain the general purport	As regards Government's suggestion at sub-para (2) necessary directions should be issued to State Governments in the matter.

			and effect of the important rules. (Department of Parliamentary Affairs O.M. No. S (III) L (15) 57/P.A., dated the 28th March, 1957).	
		Recommendations of General Nature which cancern all Ministries		
3	Para 31 Fourth Report.	The representation of members of Parliament on statutory bodies should be by election by either House, or in the alternative, by nomination by the Speaker or the Chairman ; in no case should the selection of representatives of Parliament be left to be made by the Executive Government.	Cannot be given effect to in respect of Acts already in force, without amending them. In case of future statutory bodies it should be left to Parliament to decide on merits of each case. (Department of Parliamentary Affairs O.M. No. 71(L)/56-PA, dated the 9th July, 1956).	Whenever relevant Acts are amended in future the recommendation of the Committee should be implemented.
4	Para 31, Sixth Report.	Where rules are subject to the condition of previous publication a period of not less than 30 clear days exclusive of the time taken in publishing the draft rules in the Gazette and despatching the Gazette copies to various parts of the country, should be given to the public to send in their comments on draft rules.	Government accept this recommendation subject to the proviso that urgency of a case may not allow 30 clear days notice being given for eliciting public opinion on draft rules. (Department of Parliamentary Affairs O.M. No. S(6) L-57-PA, dated the 21st June, 1957).	In cases where the period of notice is less than 30 days a Press Communique should be issued immediately to the effect that draft rules for inviting public opinion have been published so that the public may be aware of the draft rules and may have adequate time to send in their comments.

APPENDIX IV

(*See* para 73)

Statement of 'Orders' in respect of which there has been delay in laying on the Table

Serial No.	No. of 'Order'	Description of 'Order'	Date of publication in Gazette	Date of laying on the Table	Period which elapsed between the two dates	Names of the Ministry concerned	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	S.R.O. 815 of 1957	Amendment in the Employees Provident Fund Scheme, 1952.	16-3-57	13-5-57	1 month 25 days	Ministry of Labour & Employment.	
2	S.R.O. 3565 of 1957		9-11-57	10-12-57	1 month		
3	S.R.O. 1319 of 1957	The Indian Medical Council Rules, 1957.	27-4-57	19-7-57	2 months 9 days		
4	S.R.O. 465 of 1956	Amendment in the Prevention of Food Adulteration Rules, 1955.	25-2-56	13-12-57	1 year, 9 months and 18 days.	Ministry of Health.	
5	S.R.O. 1202 of 1956		26-5-56	13-12-57	1 year, 6 months and 17 days.		
6	S.R.O. 2213 of 1956		28-9-56	13-12-57	1 year, 2 months and 15 days.		
7	S.R.O. 2395 of 1957	The Custom Duties Drawback Choke for Florescent Lamps Rules, 1957.	20-7-57	12-8-57	22 days	Ministry of Finance.	
8	S.R.O. 2395 of 1957	The Custom Duties Drawback Saccharin Rules, 1957.	20-7-57	12-8-57	22 days	Ministry of Finance	
9	S.R.O. 2400 of 1957	The Custom Duties Drawback (Jute Manufacture) Rules, 1957.	24-7-57	12-8-57	18 days		

10	S.R.O. 2782 of 1957 .	Amendment in the Customs Duties Drawback (Plastic Goods) Rules, 1957.	31-8-57	11-11-57	2 months 10 days	Ministry of Finance.
11	S.R.O. 3506 of 1957 .	Amendment in the Customs Duties Drawback (Nitrous Oxide) Rules, 1955.	31-10-57	26-11-57	26 days .	
12	S.R.O. 3430 of 1957 .	Amendment in the Customs Duties Drawback (Galvanised Iron Wire Products) Rules, 1957.	29-10-57	29-11-57	18 days .	
13	S.R.O. 2507 of 1957 .	Amendment in the Mining Leases (Modification of term) Rules, 1956.	3-8-57	23-8-57	20 days . .	Ministry of Steel, Mines and Fuel.
14	S.R.O. 1743 of 1955 .	Amendment in Mineral Conservation and Development Rules, 1955.	13-8-55	12-12-57	2 years 4 months	
15	S.R.O. 354 of 1956 .	Amendment in the Colliery Control Order, 1945.	18-2-56	17-12-57	1 year 10 months.	
16	S.R.O. 2496 of 1956 .	Amendment in the Colliery Control Order, 1945.	23-11-56	17-12-57	1 year 1 month 14 days.	
17	S.R.O. 2692 of 1956 .	Amendment in the Colliery Control Order, 1945.	17-11-56	17-12-57	1 year . .	
18	S.R.O. 2946 of 1956 .	Amendment in the Colliery Control Order, 1945.	8-12-56	17-12-57	1 year and 9 days	
19	S.R.O. 3032 of 1956 .	Amendment in the Colliery Control Order, 1945.	15-12-56	17-12-57	1 year 2 days .	
20	S.R.O. 2476 of 1957 .	Amendment in the All India Services (Conduct) Rules, 1954.	3-8-57	23-8-57	20 days .	Ministry of Home Affairs.
21	S.R.O. 2573 of 1957 .	The Territorial Councils Rules, 1957.	6-8-57	30-8-57	24 days. .	
22	S.R.O. 1957 of 1957 .	Amendment in the Development Councils (Procedural) Rules, 1952.	15-6-57	5-9-57	1 month 20 days	

(1)	(2)	(3)	(4)	(5)	(6)	(7)
23	S.R.O. 2494 of 1957 .	Amendment in Tea Rules, 1954 .	3-8-57	24-8-57	21 days . .	Ministry of Commerce and Industry.
24	S.R.O. 2495 of 1957 .	Amendment in Tea Rules, 1954 .	3-8-57	24-8-57	21 days . .	
25	S.R.O. 598 of 1956 .	Amendment in Central Silk Board Rules, 1955.	10-3-56	18-12-57	1 year 9 months 8 days.	
26	S.R.O. 599 of 1956 .	Amendment in the Central Silk Board Rules, 1955.	10-3-56	18-12-57	Do.	
27	S.R.O. 600 of 1956	Do.	Do.	Do.	Do.	
28	S.R.O. 601 of 1956	Do.	Do.	Do.	Do.	
29	S.R.O. 2003 of 1956 .	Amendment in Salt (Reserve Stocks) Order, 1955.	8-9-56	18-12-57	1 year 3 months 10 days.	
30	S.R.O. 2420 of 1957 .	Amendment in the Cotton Textiles (Production by Handloom) Control Order, 1956.	27-7-57	13-9-57	1 month 17 days	
31	S.R.O. 2515 of 1957 .	Amendment in Displaced Persons (Compensation and Rehabilitation) Rules, 1955.	3-8-57	29-8-57	26 days. .	Ministry of Rehabilitation.
32	S.R.O. 2554 of 1957 .	Amendment in the Indian Aircrafts Rules, 1937.	10-8-57	11-9-57	1 month	
33	S.R.O. 537 of 1956 .	Amendment in the Motor Vehicles International Circulation Rules, 1933.	3-3-56	6-12-57	1 year 9 months 3 days.	Ministry of Transport and Communications.
34	S.R.O. 538 of 1956 .	Amendment in Motor Vehicles (Third Party Insurance) Rules, 1946.	Do.	Do.	Do. .	
35	S.R.O. 2580 of 1957 .	Rajasthan Gram (Prohibition of Export) Order, 1957	9-8-57	11-12-57	4 months 2 days	Ministry of Food and Agriculture.

36	S.R.O. 2630 of 1957 .	Amendment in Inter-Zonal Wheat Movement Control Order, 1957.	14-8-57	11-12-57	3 months 26 days.	Ministry of Food and Agriculture.
37	S.R.O. 2720 of 1957 .	Amendment in Orissa Rice (Prohibition of Export) Order, 1957.	26-8-57	11-12-57	3 months 15 days.	
38	S.R.O. 2855 of 1957 .	Amendment in Rice (Southern Zone) Movement Control Order, 1957.	4-9-57	11-12-57	3 months 7 days	
39	S.R.O. 2861 of 1957 .	Wheat Rollers Flour Mills (Licensing and Control) Order, 1957.	9-9-57	11-12-57	3 months 2 days	
40	S.R.O. 3056 of 1957	Amendment in the Rajasthan Gram (Prohibition of Export) Order, 1957.	28-9-57	Do.	1 month	
41	S.R.O. 3087 of 1957 .	Cancelling the Rajasthan Gram (Prohibition of Export) Order, 1957.	26-9-57	Do.	Do.	
42	S.R.O. 3277-A of 1957	Amendment in Orissa Rice (Prohibition of Export) Order, 1957.	14-9-57	Do.	Do.	
43	S.R.O. 3579 of 1957 .	Amritsar and Gurdaspur District (Rice Export Control) Order, 1957.	5-11-57	Do.	Do.	
44	S.R.O. 3677 of 1957 .	Rice (Restriction on Rail Bookings) Order, 1957.	13-11-57	Do.	28 days.	

APPENDIX V

Minutes

I

FIFTH SITTING

Parliament House, New Delhi: Friday the 22nd November, 1957

The Committee met from 16.00 hours to 16.30 hours.

PRESENT

Sardar Hukam Singh, Deputy Speaker—*Chairman.*

MEMBERS

Shri Anand Chandra Joshi

Shri K. S. Ramaswamy

Shri Bahadur Singh

Shri Aurobindo Ghosal.

SECRETARIAT

Shri N. N. Mallya—*Deputy Secretary.*

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and Orders:—

1. * * * * * *

2. Citation of exact Statutory Authority in the Preamble to the 'Orders'—(Memo. No. 36).

3. Action taken or proposed to be taken by Government on various recommendations of the Committee on Subordinate Legislation—(Memo. No. 37).

4. Bye-laws for the regulation of the grazing of animals in the Poona Cantonment (S.R.O. 330 of 1956, Part II, Section 4 of the Gazette)—(Memo. No. 38).

5. Amendments to the Mineral Concession Rules, 1949 (S.R.O. 1681 of 1951)—(Memo. No. 39).

6. Foreign Exchange Regulation (Amendment) Bill, 1957—(Memo. No. 40).

7. Dhoties (Additional Excise Duty) Amendment Bill, 1957—(Memo. No. 41).

8. Bye-laws for the regulation of public water supply etc. and collection of water charges in Deolali Cantonment (S.R.O. 80 of 1957, Part II, Section 4 of the Gazette)—(Memo. No. 42).

9. The Bombay Dock Workers (Regulation of Employment) Scheme, 1956 (S.R.O. 2634 of 1956)—(Memo. No. 43)

10. Railway Passenger Fares Bill, 1957—(Memo. No. 44).

Citation of exact statutory authority in the preamble to the orders.

3. The Committee in para 76 of their Sixth Report (First Lok Sabha) and in para 76 of their First Report (Second Lok Sabha) had recommended that specific sections of the parent Act should be specifically cited in the preamble to all rules, regulations etc. for the purpose of enabling all concerned to know under what precise authority the rules were made.

4. The Ministry of Transport and Communications did not cite specific section of the Post Office Act in the preamble to S.R.Os. 1011, 1015 and 2342 of 1957 amending the Indian Post Office Rules. Also the Ministry of Commerce and Industry did not cite specific section of the Forward Contracts (Regulation) Act, 1952 in the preamble of S.R.O. 179 of 1957.

5. The point was referred to the Ministries concerned. The Ministry of Transport and Communications intimated the section of the parent Act, but the Ministry of Commerce and Industry stated as follows:—

> "the amendments to the bye-laws were not made by the Central Government. They were made by the concerned Association and were sent to the Central Government for approval. By the S.R.O. in question, no bye-laws were made. The S.R.O. merely published what was already made and approved. Hence the need for quoting authority in exercise of which the bye-laws were made did not arise."

6. The Committee noticed that section 11 of the Forward Contracts (Regulation) Act, 1952 authorizes recognised associations to make bye-laws subject to the previous approval of the Central Government and required publication thereof in the Gazette. Under section 12 of the Forward Contracts (Regulation) Act, 1952, the Central Government could amend those bye-laws. The Committee felt that in the preamble to S.R.O. 179 of 1957 the relevant section under which it was made could have been cited for the purpose of enabling all concerned to know under what precise authority the bye-laws were made.

7. The Committee felt that the reasons advanced by the Ministry of Commerce and Industry for not citing the authority were not convincing. The Committee emphasised that Ministries should cite the sections of the parent Act in the preamble of all rules, regulations, bye-laws etc. and amendments issued or published by them.

Action taken or proposed to be taken by Government on various recommendations of the Committee on Subordinate Legislation (First Lok Sabha)

8. The Committee was apprised of the Government's replies on various recommendations contained in their Second, Third, Fourth and Sixth Reports (First Lok Sabha). Recommendations that have been accepted by the Government are given in Appendix I (*vide* page 15 *ante*). Recommendations not accepted by the Government but replies in respect of which have been accepted by the Committee are given in Appendix II (*vide* page 20 *ante*). Recommendations not accepted by the Government wholly or partly and the Committee have commented upon the replies are given in Appendix III (*vide* page 27 *ante*).

Bye-laws for the regulation of the grazing of animals in the Poona Cantonment (S.R.O. 330 of 1956, Part II, Section 4 of the Gazette)

9. Clause 2 of the above bye-laws required that all persons who desire to let their animals out for grazing, shall pay in advance such fees as may be fixed by the Cantonment Board from time to time.

10. Sections 282(21) and 283 of the Cantonments Act, 1924 under which the above bye-laws have been made, do not authorise the Cantonment Board to levy grazing fees.

11. The Committee, as they had already done in a similar case regarding the Nasirabad Cantonment Bye-laws observed that if the Board wanted to levy grazing fees, the Cantonments Act, 1924 should be suitably amended to provide for the levy of such fees.

Amendments to the Mineral Concession Rules, 1949 (S.R.O. 1681 of 1951)

12. S.R.O. 1681 of 1951 which was issued under section 5 of the Mines and Minerals (Regulation and Development) Act, 1948, introduced new rules 55 and 56 in the Mineral Concession Rules, 1949. The new rules read as follows:—

> "55. No court shall take cognizance of any offence punishable under these Rules, unless upon complaint made in writing by an officer empowered by the State Government in this behalf, within six months of the date on which the said offence is alleged to have been committed."
>
> "56. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under these Rules."

13. The Committee on Subordinate Legislation in para 24 of their Second Report had observed that provisions as to which court should take cognizance of the offences under the parent Act, and the period upto which it could take such cognizance were not matters to be provided in the Rules and should more properly be dealt with in an Act of Parliament.

14. The Committee noted that the main provisions of the said rules 55 and 56 had been incorporated in clause 21 of the Mines and Minerals (Regulation and Development) Bill, 1957 which was introduced in Lok Sabha on the 29th July, 1957.

Provision in the Bills for laying the Rules before Parliament

15. Clause 19 of the Foreign Exchange Regulation (Amendment) Bill, 1957 sought to give further rule-making power to the Government in addition to those given under section 27 of the principal Act; but there was no provision in the principal Act or in the amending Bill for laying the rules made thereunder before Parliament.

16. The Committee noted that an amendment to the Bill to provide for the following was moved by a Member of the Committee and adopted by the House on the 31st August, 1957:—

> "All rules made under this Act shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the Session in which they are so laid or the Session immediately following."

17. Clause 6 of the Dhoties (Additional Excise Duty) Amendment Bill, 1957 sought to delegate further rule-making power to the Government in addition to those delegated to them under section 5 of the principal Act. Neither the principal Act nor the amending Bill contained any provision for laying the rules made thereunder before Parliament.

18. The Committee noted that an amendment to the Bill to provide for the laying of the rules etc. on the lines mentioned in para 16 above was moved by a Member of the Committee and adopted by the House on the 7th September, 1957.

Bye-laws for the regulation of public water supply etc. and collection of water charges in Deolali Cantonment (S.R.O. 80 of 1957, Part II, Section 4 of the Gazette)

19. The above bye-laws were made under the Cantonments Act, 1924.

Bye-law No. 20:—This bye-law read as follows:—

"20. Meters shall be supplied by the consumers at their own cost, which will nevertheless become the property of the Cantonment Board."

20. There appeared to be no reason why the meters supplied at the cost of the consumers should become the property of the Board.

21. *Bye-law No.* 26:—This bye-law authorised the Cantonment Board to close, stop, reduce or restrict the supply of water *inter alia* in respect of classes of persons.

22. It was felt that this provision might lead to discrimination between different classes of persons.

23. The Ministry of Defence to whom the above points were referred for comments stated as follows:—

".....,, necessary action is being taken by the President Cantonment Board, Deolali to amend the bye-laws, as follows:—

(a) to delete words 'which will nevertheless, become the property of the Cantonment Board' from bye-law No. 20.

(b) to delete the words 'classes of persons' occurring in bye-law No. 26."

24. The Committee noted the Ministry's assurance.

The Bombay Dock Workers (Regulation of Employment) Scheme, 1956, (*S.R.O.* 2634 *of* 1956)

25. The Bombay Dock Workers (Regulation of Employment) Scheme, 1956 was made under the Dock Workers (Regulation of Employment) Act, 1948.

26. *Clause* 15(1) (*d*):—This clause provides that a registration fee of Rs. 500 shall be payable by certain category of stevedores.

27. Section 3(2) (c) of the parent Act provides for levying of registration fee in respect of Dock Workers only and not stevedores.

28. It was felt that in the absence of any specific authorisation the levy of registration fee of Rs. 500 was beyond the rule-making power of the Government.

29. *Clause* 15(1) (*e*):—Second proviso to this clause gives discretionary power to the Board to dissolve the group of registered employers, formed under the Scheme for purposes of pooling their

resources together and enlisting monthly dock workers, when the Board is satisfied that employers have failed to comply with the conditions prescribed by it.

30. It was felt that the dissolution of a group might affect the employers financially and as there was no right of appeal against the order of the Board, an opportunity of being heard should have been given to the employers affected.

31. The Committee had considered exactly similar points in connection with the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 and recommended in paras. 133 and 137 of the First Report (Second Lok Sabha) that—

(1) The levy of registration fee on the stevedores (employers) should be provided in the Act itself.

(2) The dissolution of a group might affect the employers financially and as there was no right of appeal against the orders of the Board, an opportunity of being heard should have been given to the aggrieved employers and the rules should be amended accordingly.

32. The Committee felt that the above recommendation should hold good in respect of this Scheme as well.

Railway Passenger Fares Bill, 1957 Provision for laying the Rules before Parliament

33. Clause 6 of the Railway Passenger Fares Bill, 1957 sought to delegate to the Central Government the rule-making power to carry out the purposes of the Act. The clause did not contain any provision for laying the rules so framed before Parliament.

34. Attention of the Ministry of Finance was invited to paras 77 to 79 of the Sixth Report of the Committee on Subordinate Legislation (First Lok Sabha) according to which the following provision for laying the rules on the Table of the House should have been inserted in the Bill.

"All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the Session in which they are so laid or the Session immediately following."

35. The Committee noted the assurance given by the Ministry of Finance that the procedure for laying the rules before both Houses of Parliament as mentioned in the Sixth Report would be duly followed in respect of rules made under the Railway Passenger Fares Act, 1957.

36. The Committee then adjourned *sine die*.

II

SIXTH SITTING

Parliament House, New Delhi: Friday the 13th December, 1957.

The Committee met from 16.00 hours to 16.45 hours.

PRESENT

Sardar Hukam Singh, Deputy Speaker—*Chairman.*

MEMBERS

Shri Anand Chandra Joshi
Shri Harish Chandra Mathur
Shri Sinhasan Singh
Shri Bahadur Singh
Shri T. N. Viswanatha Reddy
Shri Aurobindo Ghosal.

SECRETARIAT

Shri N. N. Mallya—*Deputy Secretary.*
Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and Orders:—

1. Amendment to the Indian Wireless Telegraphy (Commercial Radio Operators Certificates of Proficiency and Licence to Operate Wireless Telegraphy) Rules, 1954 (S.R.O. 793 of 1957)—(Memo. No. 45).
2. Bye-laws for the regulation of herding of animals and their registration in the Allahabad Cantonment (S.R.O. 458 of 1956, Part II, Section 4 of the Gazette)—(Memo. No. 46).
3. Amendment in the Carbide of Calcium Rules, 1937 (S.R.O. 3248 of 1957)—(Memo. No. 47).
4. Amendments in Schedule III of the Indian Administrative Service (Pay) Rules, 1954 (S.R.O. 2726 of 1957)—(Memo. No. 48).
5. * * * * * *
6. Amendment in the Indian Central Coconut Committee Provident Fund Rules (S.R.O. 1555 of 1957)—(Memo. No. 50).

7. Procedure for applications made under sub-clause (1) of clause 14B of the Cotton Control Order, 1955 (S.R.O. 1415 of 1957)—(Memo. No. 51).

8. * * * * * *

9. Calcutta Dock Workers (Regulation of Employment) Scheme, 1956—(S.R.O. 2315 of 1956).

Amendment to the Indian Wireless Telegraphy (Commercial Radio Operators Certificates of Proficiency and Licence to operate Wireless Telegraphy) Rules, 1954 (S.R.O. 793 of 1957)

3. Rule 11(2) of the above rules as amended by S.R.O. 793 of 1957, authorised the Central Government to prescribe any fees for issue of duplicate copies of a certificate or licence under the said rules but did not prescribe the rates of such fees in the body of the rules.

4. Ordinarily the rates of fees are laid down in the body of the rules and not in separate notifications.

5. On a reference being made, the Ministry of Transport and Communications assured that the rates of fees should be included in the body of the rules whenever they were printed again.

6. The Committee noted the assurance given by the Ministry.

Bye-laws for the regulation of herding of animals and their registration in the Allahabad Cantonment (S.R.O. 458 of 1956, Part II, Section 4 of the Gazette)

7. Bye-law 2 of the above Bye-laws authorised the levy of a fee of Rs. 1-8-0 to Rs. 2 on persons owning or keeping animals within the Allahabad Cantonment.

8. Similarly Bye-law 9 imposed a fee of Re. 1 for every permit issued for using any premises as a stable, cowhouse etc.

9. Clauses 11 and 37 of section 282 of the Cantonments Act, 1924 under which these Bye-laws were made did not provide for the levy of such fees.

10. In the absence of any specific statutory authority the imposition of above-mentioned fees appeared to go beyond the bye-law making power of the Cantonment Board.

11. The Ministry of Defence in consultation with the Ministry of Law, stated that "Ministry will have to amend the bye-laws in respect of Allahabad Cantonment and all the bye-laws which have a similar position. Necessary action in this respect is being taken separately."

12. The Committee noted the assurance given by the Ministry.

Amendment in the Carbide of Calcium Rules, 1937 (S.R.O. 3248 of 1957)

13. Rule 13 of the Carbide of Calcium Rules, 1937 was made under the Petroleum Act, 1934.

14. This rule delegated rule-making power to subordinate authorities though such sub-delegation was not authorised by the parent Act.

15. The point was referred to the Ministry of Works, Housing and Supply who intimated that action to delete Rule 13 of the Carbide of Calcium Rules was being taken.

16. The Committee noted that the said Rule 13 has since been deleted.

Amendments in Schedule III of the Indian Administrative Service (Pay) Rules, 1954 (S.R.O. 2726 of 1957).

17. The Indian Administrative Service (Pay) Rules, 1954 were made under the All India Services Act, 1951.

18. S.R.O. 2726 amending Schedule III of the Indian Administrative Service (Pay) Rules, 1954 was published in the Gazette of India on the 31st August, 1957 but it was given retrospective effect from the 4th April, 1957. It was felt that the retroaction of the S.R.O. might affect some of the persons adversely.

19. The All India Services Act, 1951 under which the above S.R.O. was made does not expressly empower the Government to give retrospective effect to Rules made under it.

20. Ministry of Home Affairs to whom the above point was referred replied as follows:—

> "Amendments to the rules can be issued only after consultation with the State Governments and the concerned Ministries in the Government of India. Normally even after such consultation, the form of amendment has to be formally vetted by the Ministry of Law and where necessary, by certain other Ministries also. All this process takes time and where a decision to amend any particular rules has been arrived at after consulting the proper authorities, it is the practice to issue executive orders and undertake formal amendment later. Where such formal amendments have to be given effect to from the date of the executive orders or from an earlier date, where such earlier date is agreed to by all concerned, the formal amendments are given retrospective effect. It is under such circumstances that formal amendments are given retrospective effect.

While this is the general position, the need for giving retrospective effect to the amendment issued under S.R.O. 2726 of 1957 is explained below:—

The Indian Administrative Cadre Schedule of Assam was revised with effect from the 4th April, 1957, *vide* Ministry of Home Affairs Notification No. 17/13/56—AIS(III), dated the 4th April, 1957. As the entries in Schedule III—A and III—B to the Indian Administrative Service (Pay) Rules, 1954, are to correspond to the entries in the Indian Administrative Service Cadre Schedule, the entries in Schedule III to Pay Rules had to be revised with effect from the date on which the revised Cadre Schedule came into force *i.e.* 4th April, 1957".

21. The Committee felt that in view of the explanation given by the Ministry no further action was necessary.

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Amendment in the Indian Central Coconut Committee Provident Fund Rules (S.R.O. 1555 of 1957)

26. S.R.O. 1555 of 1957 which was issued under section 18 of the Indian Coconut Committee Act, 1944 *inter alia* substituted rule 8(3) of the Indian Central Coconut Committee Provident Fund Rules.

27. New rule 8(3) of the above rules provides that a person employed under the Committee, either temporarily or on a long term basis, may subscribe to the Provident Fund from the date of his appointment but he will be entitled to claim the Committee's share of contribution to the Fund only from the date on which he completes 3 years of his service.

28. According to the substituted Rule 8(3) an employee could become a subscriber to the Fund upon confirmation and he had the option to subscribe with retrospective effect from the date of commencement of his probation. In case he subscribed with retrospective effect he could under Rule 11(4) get Committee's share of contribution for the whole period for which such retrospective effect was given.

29. The Committee noted that the present probationers who could have on confirmation subscribed with retrospective effect and got the Coconut Committee's share of contribution to the Fund with effect from the date of the commencement of their probation could under the present amendment only claim that contribution from the

date on which they completed 3 years of service. The Committee felt that the new rule would affect the present probationers adversely.

30. The Ministry of Food and Agriculture to whom a reference was made in the matter stated as follows:—

> "Under the new Rule 8(3) a temporary employee of the Committee as well as a permanent one is entitled to claim the Committee's share of contribution to the Provident Fund only from the date on which he completes three years of his service under the Committee though he is entitled to subscribe retrospectively from the date of his appointment. But under Rule 11(4) of the Committee's Provident Fund Rules a subscriber can claim the Committee's share of contribution even before the expiry of the stipulated period of 3 years. There appears to be some inconsistency between the new Rule 8(3) and Rule 11(4) and this inconsistency is being removed by amending the latter Rule. No cases where the amendment has affected adversely any present probationers have so far been brought to the notice of this Council."

31. The Committee noted the Ministry's reply, however they recommended that either the old rule 8(3) should be restored or the amended rule 8(3) should be made applicable to only new entrants as natural justice demanded that no change in the rules should be brought about which might adversely affect the terms and benefits of persons in service already.

Procedure for Applications made under sub-clause (1) *of Clause* 14*B of the Cotton Control Order,* 1955—(*S.R.O.* 1415 *of* 1957)

32. S.R.O. 1415 was made under the Cotton Control Order, 1955.

33.Para 2(iii) of the above S.R.O. provides that for the purpose of valuation of cotton the Textile Commissioner shall get it surveyed at the cost of the applicant purchasing cotton and para 2(vi) provides that the survey fees shall not exceed Rs. 16/- for every 50 bales or part thereof.

34. Essential Commodities Act, 1955 under which the Cotton Control Order, 1955 was issued does not provide for the levy of such fees.

35. The Ministry of Commerce and Industry to whom the above point was referred stated as follows:—

> "The Law Ministry has been consulted and in view of the decision of the Patna High Court in the case of Ram Lakshman *Vs.* Election Commissioner, 7 E.L.R. 364, this Ministry has been advised that the levy of fees under

S.R.O. 1415 even in the absence of an express provision for such levy in the parent Act *i.e.* Essential Commodities Act, 1955, is legally supportable."

36. The Committee recalled a similar point raised in connection with the Delhi (Control of Building Operations) Regulation, 1955. The case had been referred to the Attorney-General who in his reply had made a reference to the decision of the Patna High Court in Ram Lakshman *Vs.* the Election Commissioner 7 E.L.R. 364, on which the Ministry of Food and Agriculture replied for the validation of the fees referred to in S.R.O. 1415 above. In the light of the opinion given by the Attorney General the Committee in para 72 of their First Report (Second Lok Sabha) had recommended that the regulation ought to be amended.

In this case also the Committee recommended that in order to enable the levy of survey fees the Essential Commodities Act, 1955 should be suitably amended.

37. Para 1(i) of S.R.O. 1415 reads as follows:—

"A manufacturer requiring any variety or description of cotton shall make an application in duplicate to the Textile Commissioner, Bombay, in the form annexed thereto."

38. It was noticed that there was no form annexed to the S.R.O. as stated above.

39. On a reference being made to the Ministry stated that the form had been published separately as S.R.O. No. 1539, dated the 8th May, 1957 in the Gazette of India, Part II, Section 3.

40. The Committee noted the Ministry's reply.

41. The S.R.O. was in the nature of Subordinate Legislation and therefore, the Ministry were requested to state whether they intended to lay the order before Parliament like the orders issued under Section 3 of the Essential Commodities Act, 1955.

42. The Ministry replied as follows:—

"S.R.O. 1415 has been issued by the Textile Commissioner in exercise of the power conferred on him by sub-clause (2) of clause 14B of the Cotton Control Order, 1955. As the said S.R.O. is not issued under Section 3 of the Essential Commodities Act, 1955, it is considered that a copy of this order need not be laid before the Parliament."

43. The Committee did not accept the above view of the Ministry. The Committee observed that in view of the fact that the Cotton Control Order, 1955 had been issued under the Essential Commodities

Act, 1955, S.R.O. 1415 which was in the nature of subsidiary order ought to have been laid before Parliament.

44. The Committee recommended that all orders issued under the Cotton Control Order should be laid before Parliament.

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Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 (S.R.O. 2315 of 1956)

52. The Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 was framed under the Dock Workers (Regulation of Employment) Act, 1948.

53. Clause 15(1) (c) of the said Scheme reads as under:—

> "Persons or firms other than those who are deemed to have been registered under item (b) shall not be registered as stevedores unless the Board considers it expedient and necessary to do so and in no case shall a person or a firm be registered until he or it has been licensed in that behalf by the *Port Authority.*"

54. The term 'Port Authority' occurring in the above clause of the Scheme has neither been defined in the parent Act nor in the Scheme. In the absence of any definition of the term it was not clear as to what constituted the Port Authority for the purposes of the said Scheme.

55. On a reference being made, the Ministry of Labour and Employment stated that the term 'Port Authority' referred to the "Calcutta Port Commissioners" set up under the Calcutta Port Act, 1890 and that term had not given rise to any difficulty.

56. It was pointed out to the Committee that the term 'Port Authority' had been defined in section 2(bb) of the Employment of Children Act, 1938, meaning 'a body of Port Commissioners or other authority administering a port'.

57. The Committee observed that though the use of the term "Port Authority" in the Scheme had not presented any difficulty as stated by the Ministry, the term ought to have been defined in the Scheme itself.

58. The Committee recommended that the term "Port Authority" should be defined as in the Employment of Children Act, 1938 or substituted by an appropriate term used in the Calcutta Port Act, 1890.

59. The Committee then adjourned *sine die*.

III

SEVENTH SITTING

Parliament House, New Delhi: Friday the 20th December, 1957

The Committee met from 16.00 hours to 16.25 hours.

PRESENT

Sardar Hukam Singh, Deputy Speaker—*Chairman.*

MEMBERS

2. Shri Phani Gopal Sen
3. Shri Anand Chandra Joshi
4. Shri Harish Chandra Mathur
5. Shri K. S. Ramaswamy
6. Shri Bahadur Singh
7. Shri Aurobindo Ghosal
8. Shri J. M. Mohamed Imam
9. Dr. A. Krishnaswami
10. Shri Braj Raj Singh.

SECRETARIAT

Shri N. N. Mallya—*Deputy Secretary.*

Shri A. L. Rai—*Under Secretary.*

2. The Committee decided that the delay in laying the 'Orders' on the Table shown in Appendix IV. (*vide* Page 30 *ante*) be reported to the House.

3. The Committee considered the draft of the Second Report and adopted the same.

4. The Committee authorised the Chairman to present the Report to the House.

5. The Committee then adjourned *sine die.*

GIPND—LSI—1830LS—7-2-58